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FEDERAL TRADE COMMISSION WORKSHOP
COLLECTING CONSUMER DEBTS: THE CHALLENGES OF CHANGE
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I am Associate Director of the Elder Law Clinic at St. John's University School of Law (formally known as the St. Vincent de Paul Legal Program, Inc.) and an Assistant Professor for Clinical Education at St. John's. I have taught at St. John's, in the Elder Law Clinic, for six years. The Elder Law Clinic is a graded law school course in which students provide free legal services to low and modest income seniors residing in Queens County. I supervise the law students along with my colleague Ann Goldweber, the clinic Director. Our practice area is primarily consumer protection: predatory lending, deed theft, home improvement contractor fraud, and debt collection. We obtain clients through telephone intake and conduct regular outreach work at senior centers.

I appreciate the opportunity to share my comments on debt collection, which are based on my experience in the St. John's Law School Elder Law Clinic. Because the Clinic functions as a small public interest law office within an academic institution, the Elder Law Clinic is well-positioned to comment on how the current version of the Fair Debt Collection Practices Act ("FDCPA") should be changed to afford better protection to consumers to keep up with changes in the debt collection industry. Consistent with the observations of the Federal Trade Commission, more and more seniors have been seeking our assistance to curtail debt collector abuses. Through our cases, we observe how the current regulatory scheme impacts some of the most vulnerable consumers: elderly people living on fixed incomes.

The Commission has shown great insight in its Topics for Comment. Many of the issues identified there are the same issues we regularly see in individual cases and as trends in all of our cases.

All of the observations included in these comments – illustrated in part by a lawsuit the Clinic filed three years ago -- lead to the conclusion that the FDCPA needs to be amended to better address the issues raised by serial debt buying. Specifically, a debt purchaser should not be permitted to collect a debt when the consumer has told a predecessor debt buyer that she no longer wishes to be contacted. In addition, if a debt buyer has not responded to a request for validation, a subsequent sale of the debt should be considered prohibited collection activity. Under current law, a collector cannot continue collection efforts if it has not provided validation pursuant to a request. Collectors who cannot validate debts should not evade the prohibition by selling the debt,

